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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,823	10/29/2003	Shinichiro Fukuoka	N0520.0047/P047	6755
24998 7590 05/01/2008 DICKSTEIN SHAPIRO LLP 1825 EYE STREET NW Washington, DC 20006-5403				
EXAMINER BROWN, VERNAL U				
ART UNIT 2612		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/694,823

Applicant(s)

FUKUOKA, SHINICHIRO

Examiner

VERNAL U. BROWN

Art Unit

2612

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 28-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 28-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-946)
- 3) ☐ Information Disclosure Statement(s) (PTO/SE/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

This action is responsive to communication filed on March 6, 2008.

Response to Amendment

The examiner has acknowledged the amendment of claims 28, 32, 37, and 41.

Response to Arguments

Applicant's arguments filed March 6, 2008 have been fully considered but they are not persuasive.

Applicant argues that the reference of Cato and Muhme fails to disclose the tag containing information indicating whether an article attached to the tag is permitted or inhibited to pass through an area. It is the examiner's position that the limitation is broadly claimed and any information stored in the tag that is used to determine if the tagged object is allow to pass through an area reads on this limitation. Therefore the identification information stored in the tag as disclosed by Cato is used to identify the product to which the tag is attached and is used to retrieve product and price information (col. 8 lines 41-45) and passage is allowed after payment is made. The reference of Muhme also teaches reading the tag identification information to determine if the tagged object is allow to pass through an area (col. 3 lines 12-24).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 18-19, 28-29, 31, 32-34, 36, 37-38, 40/37, 40/38, 41-43, and 45 are rejected under 35 U.S.C. 102(b) as being anticipated by Cato et al. US Patent 5539394.

Regarding claims 28-29, Cato et al. teaches Cato et al. teach a radio communication system (interrogator) communicating with a wireless tag attached to an article (col. 4 lines 22-25) and the wireless tag includes tag data (col. 2 lines 50-54, col. 5 lines 5-10). Cato et al. teaches a passage radio communication means(21) that is installed in a passage section leading to the management area (store) and the communication means communicates with the electronic tag attached to an article (col. 4 lines 22-25) and a tag check processing means for detecting whether the noncontact electronic tag is permitted to pass the passage section by reading the items in the cart and ensuring the payment of items in the cart (col. 4 lines 21-29, col. 8 lines 36-40). Cato et al. teaches a multiple tag access processing means for avoiding collision between multiple electronic tags and for enabling the reading the tag data stored in the electronic tag (col. 3 lines 56-64) and also teaches the multiple tag access processing is enabled when the processing means detect a noncontact electronic tag whose passage is inhibited because the passage of the items in the cart is inhibited until they are paid for and multiple access processing means is used to enable

the reading of the tags in card by avoiding collision between the data read from the different tags (col. 6 lines 5-15, col. 6 lines 23-30).

Regarding claim 31, Cato et al. teaches the identification includes family identifier represented by the UPC code and the tag also includes a unique identifier (col. 5 lines 5-12). Cato et al. further teaches the tag identification is used to inhibit the tag (col. 3 lines 51-55).

Regarding claim 32, Cato et al. teach a radio communication system (interrogator) communicating with a wireless tag attached to an article (col. 4 lines 22-25) and the wireless tag includes tag data (col. 2 lines 50-54, col. 5 lines 5-10). Cato et al. teaches the radio communication system provides for the access and the processing of multiple tag information (col. 3 lines 31-35). Cato et al. teaches the interrogator is use to set part of the unique ID stored in the electronic tag by broadcasting parameters to the tags which are use to calculate time slot in which the tag respond to the reader (col. 3 lines 31-43) and teaches a response data acquiring processing means configure to acquire the response data of the electronic which did not have collision (col. 4 lines 21-25). Cato et al. teaches transmitting an acknowledgement (ACK) signal for stopping response from the tag from which the response was received (col. 3 lines 51-55). Cato et al. further teaches enabling a repetitive processing means when the response from the tag collided by initiating another read cycle and providing a new hashing number to the tag resulting in the tags using different time slot and the process is repeated until all the tags are successfully identified (col. 3 lines 56-64).

Regarding claims 33-34, Cato et al. teaches the limiting condition for terminating the repetitive processing is the identification of all the tags in the interrogating field (col. 4 lines 62-64).

Regarding claim 36, Cato et al. teaches the identification includes family identifier represented by the UPC code and the tag also includes a unique identifier (col. 5 lines 5-12). Cato et al. further teaches the tag identification is used to inhibit the tag (col. 3 lines 51-55).

Regarding claims 37-38 and 41, Cato et al. teaches an article management system comprising;

a noncontact electronic tag storing tag data and the tag is attached to an article in a managed area such as a store (col. 2 lines 50-54, col. 5 lines 5-10);

a passage radio communication means(21) that is installed in a passage section leading to the management area (store) and the communication means communicates with the electronic tag attached to an article (col. 4 lines 22-25);

a tag check processing means for detecting whether the noncontact electronic tag is permitted to pass the passage section by reading the items in the cart and ensuring the payment of items in the cart (col. 4 lines 21-29, col. 8 lines 36-40);

a multiple tag access processing means which is also considered as the repetitive processing circuit for avoiding collision between multiple electronic tags and for enabling the reading the tag data stored in the electronic tag (col. 3 lines 56-64).

Cato et al. also teaches the multiple tag access processing is enabled when the processing means detect a noncontact electronic tag whose passage is inhibited because the passage of the items in the cart is inhibited until they are paid for and multiple access processing means is used

to enable the reading of the tags in card by avoiding collision between the data read from the different tags (col. 6 lines 5-15, col. 6 lines 23-30).

Regarding claim 40/37, Cato et al. teaches the identification includes family identifier represented by the UPC code and the tag also includes a unique identifier (col. 5 lines 5-12). Cato et al. further teaches the tag identification is used to inhibit the tag (col. 3 lines 51-55).

Regarding claim 40/38, Cato et al. teaches the identification includes family identifier represented by the UPC code and the tag also includes a unique identifier (col. 5 lines 5-12). Cato et al. further teaches the tag identification is used to inhibit the tag (col. 3 lines 51-55).

Regarding claims 42-43, Cato et al. teaches the limiting condition for terminating the repetitive processing is the identification of all the tags in the interrogating field (col. 4 lines 62-64).

Regarding claim 45, Cato et al. teaches the identification includes family identifier represented by the UPC code and the tag also includes a unique identifier (col. 5 lines 5-12). Cato et al. further teaches the tag identification is used to inhibit the tag (col. 3 lines 51-55).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 30, 35, 39, 40/39, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cato et al. US Patent 5539394 in view of Muhme US Patent 5886634.

Regarding claims 39, and 44, Cato et al. teaches an electronic tag storing data attached to an article (col. 2 lines 50-54, col. 5 lines 5-10) but is silent on teaching an user radio electronic means associated with an article passing through a passage section. Muhme in an art related invention in the same field of endeavor of electronic tag teaches a radio electronic means (22) associated with an article passing through a passage section and the tag is read by passage radio communication means (interrogator) to obtain user identification (col. 3 lines 12-24).

It would have been obvious to one of ordinary skill in the art to modify the system of Cato et al. as disclosed by Muhme because an user radio electronic means associated with an article passing through a passage section enables the determination of whether or not the user is authorized to remove certain items from an area and thereby increases the security of the system.

Regarding claims 30 and 35, Cato et al. teaches an electronic tag storing data attached to an article (col. 2 lines 50-54, col. 5 lines 5-10) but is silent on teaching an user radio electronic means associated with an article passing through a passage section. Muhme in an art related invention in the same field of endeavor of electronic tag teaches a radio electronic means (22) associated with an article passing through a passage section and the tag is read by passage radio communication means (interrogator) to obtain user identification (col. 3 lines 12-24).

It would have been obvious to one of ordinary skill in the art to modify the system of Cato et al. as disclosed by Muhme because an user radio electronic means associated with an

article passing through a passage section enables the determination of whether or not the user is authorized to remove certain items from an area and thereby increases the security of the system.

Regarding claim 40/39, Cato et al. teaches the identification includes family identifier represented by the UPC code and the tag also includes a unique identifier (col. 5 lines 5-12). Cato et al. further teaches the tag identification is used to inhibit the tag (col. 3 lines 51-55).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VERNAL U. BROWN whose telephone number is (571)272-3060. The examiner can normally be reached on 8:30-7:00 Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Zimmerman can be reached on 571-272-3059. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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